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UNITED STATES DISTRICT COURT

15

NORTHERN DISTRICT OF CALIFORNIA

16

17 CISCO SYSTEMS, INC., a Delaware
corporation and CISCO TECHNOLOGY,
18 INC., a California corporation,

19

Plaintiff,

20

v.

21

DEXON COMPUTER, INC., a Minnesota
corporation,

22

Defendant.

23

Case No. 3:20-cv-4926-CRB

**DEFENDANT DEXON COMPUTER,
INC.'S REPLY MEMORANDUM IN
SUPPORT OF RENEWED MOTION TO
DISMISS PLAINTIFFS' FIRST
AMENDED COMPLAINT FOR LACK OF
PERSONAL JURISDICTION**

Date: May 28, 2021

Time: 10:00 a.m.

Crtrm.: 6

Location: Zoom

Hon. Charles R. Breyer
Presiding Judge

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1 I. INTRODUCTION

2 Despite telling this court that it needed jurisdictional discovery to establish personal
 3 jurisdiction over Dexon in California, Cisco has relied principally on a discredited argument that
 4 Dexon contractually consented to jurisdiction in California. Namely, Cisco argues the End-User
 5 License Agreement (EULA) covering the software used by Dexon's customers lists California as
 6 the agreed-upon forum. The fatal flaw is that Dexon does not use the software and is therefore not
 7 a party to the EULA .

8 II. ARGUMENT**9 A. Personal Jurisdiction Standard**

10 1. Cisco does not argue for general jurisdiction

11 Cisco does not contend that this court has general jurisdiction over Dexon. *See* (Doc. No.
 12 35 at 14 (providing only the standard for specific jurisdiction)). This court may therefore focus its
 13 analysis on whether it has specific jurisdiction over Dexon in California.

14 2. Dexon did not commit an intentional tort while physically present in the state
 15 Cisco erroneously relies on *Freestream Aircraft (Bermuda) Ltd. v. Aero L. Grp.*, 905 F.3d
 16 597, 602 (9th Cir. 2018), for the proposition that the first two prongs of the specific jurisdiction test
 17 are satisfied because Dexon committed an intentional tort while present in California. *See* (Doc.
 18 No. 35 at 15 ("[P]ersonal jurisdiction is likely to exist . . . when a foreign defendant commits a
 19 tortious act at issue in that case within the forum.")). Contrary to Cisco's argument, *Freestream*
 20 *Aircraft* involved an intentional tort (defamation) allegedly committed "while the defendant was
 21 *physically present* in the state." *Id.* (emphasis added). The analysis in *Freestream Aircraft* applies
 22 only where a defendant has allegedly committed an intentional tort (like defamation) while being
 23 physical present in the state. *See id.* ("The effects doctrine, on the other hand, makes more sense
 24 when dealing with out-of-forum tortfeasors.").

25 Cisco's reliance on *Martensen v. Koch*, is equally flawed. 942 F. Supp. 2d 983, 992 (N.D.
 26 Cal. 2013). That case involved a claim for false imprisonment, and because part of the imprisonment
 27 occurred in California, the court determined that applying the effects test was unnecessary. *Id.* at
 28 994-96.

1 Unlike the claims and allegations in those cases, Cisco has not alleged Dexon has ever been
 2 physically present in California, let alone when it sold allegedly counterfeit product. *See generally*
 3 (Doc. No. 32). Dexon has in fact never been physically present in California. (Doc. No. 10-1 at ¶¶
 4 6-7). Because Dexon did not commit the allegedly infringing acts while present in California, and
 5 because Cisco does not allege otherwise, Cisco has not automatically established the first two prongs
 6 of the specific jurisdiction standard under *Freestream Aircraft* or *Martensen*.

7 **B. The End-User License Agreement Does Not Confer Jurisdiction Over Dexon
 8 Because Dexon Is Neither A Party To The Agreement Nor A User**

9 Cisco's principal argument is that Dexon contractually consented to jurisdiction in
 10 California pursuant to the terms of the software's EULA. (Doc. No. 35 at 16-17). As its name
 11 implies, the EULA is an agreement between Cisco and the end user of the software. (Doc. No. 35-
 12 1 at 2). Dexon is not a party to the EULA and never consented to the terms of the EULA. Tellingly,
 13 Cisco completely ignores and fails to address the plain language repeated throughout the EULA—
 14 and expressly cited in Dexon's opening memorandum—confirming the parties to the EULA are
 limited to Cisco and the end user.

15 Without limitation, the EULA unambiguously provides that it is "an agreement between You
 16 and Cisco Systems, Inc. or its affiliates ("Cisco") and governs your Use of Cisco Software." (Doc.
 17 No. 35-2 at 2). Further, "You" and "Your" is expressly limited to the individual or legal entity
 18 licensing the software. *See (id. at 25) ("You' and 'Your' means the individual or legal entity*
19 licensing the Software under this EULA."). To avoid any uncertainty, the agreement clarifies further
 20 that "Use" means to actual download, install, activate, access, or otherwise use the Software. *See*
 21 (*id. at 2*) ("Use' or 'Using' means to download, install, activate, access or otherwise use the
 22 Software.").

23 It is black letter law that if a person is not a party to the contract, that person does not consent
 24 to personal jurisdiction by reason of a forum-selection clause contained therein. *See FTC - Forward*
25 Threat Control, LLC v. Dominion Harbor Enterprises, LLC, No. 5:19-cv-06590-EJD, 2020 WL
 26 5545156, at *6 (N.D. Cal. Sept. 16, 2020) ("Movants did not sign the Agreement, did not consent
 27 to the forum selection clause, and therefore are not subject to the jurisdiction of California courts
 28 absent other countervailing considerations."); *Wescott v. Reisner*, No. 17-cv-06271-EMC, 2018 WL

1 2463614, at *3 (N.D. Cal. June 1, 2018) (“Because Ms. Condon was not a party to the agreement,
 2 however, she cannot be said to have consented to the forum selection clause; thus, she did not submit
 3 to the jurisdiction of California courts.”); *BMM SOFTWARE, Inc. v. White Oaks Tech., Inc.*, No. C-09-4562
 4 MMC, 2010 WL 3340555, at *3 (N.D. Cal. Aug. 25, 2010) (“There are two parties to the EULA,
 5 “[Plaintiff]” and “You,” the latter being an unambiguous reference to the licensee, as reflected both
 6 in the title of the agreement, ‘End User License Agreement,’ and in the above-quoted language
 7 therefrom.”) The same reasoning applies here with full force. Because Dexon is not a party to the
 8 EULA, it did not consent to personal jurisdiction in California. *Id.*

9 Although unclear, Cisco appears to argue Dexon is a party to the EULA merely because it
 10 facilitated the sale of the software to the actual end user. (Doc. No. 35 at 16-17). Namely, makes
 11 the conclusory statement that “[b]y its plain terms, the EULA applied to anyone who *purchased* a
 12 software license.” (Doc. 35 at 9) (emphasis added). Cisco failed to provide the specific language it
 13 relies on. In fact, nowhere does the EULA use the term “purchaser” or provide that a non-user
 14 middle-man distributor is somehow a party to the agreement.

15 Critically, at no point in time was Dexon a “user” of the software, and Cisco does not allege
 16 otherwise. *See generally* (Doc. No. 34). Recognizing this problem, Cisco appears to misleadingly
 17 suggest that Dexon’s provision of assistance to Dexon customer and end user Claremont McKenna
 18 College somehow qualifies as “use” under the EULA. (Doc. No. 35 at 10) (“Dexon obtained the
 19 serial number from this customer for the product on which the software was to be
 20 activated . . . Dexon emailed the PAK to Claremont McKenna College, and . . . Dexon sent a follow-
 21 up email to facilitate activation of the software that Dexon had purchased and then resold.”). This
 22 is the standard procedure for Dexon’s sales of Cisco software licenses. It provides the applicable
 23 serial number, obtains a PAK, and forwards the PAK to the end user for activation of the software.
 24 Cisco’s argument confirms Claremont McKenna – not Dexon – is the “user” and activated the
 25 software.

26 In fact, Cisco’s own jurisdictional discovery requests acknowledged Dexon is not a “user”
 27 of the software. Namely, Cisco’s document requests sought “all TRANSMITTAL DOCUMENTS
 28 for each CALIFORNIA LICENSE that Dexon sold.” “TRANSMITTAL DOCUMENTS” was

1 expressly defined as all documents “by which Dexon conveyed any activation key or other
 2 information *necessary to activate or use* a given Cisco license or service, including, but not limited
 3 to Cisco’s ‘Product Activation Key.’” (Declaration of Michael Lafeber, Ex. A) (emphasis added).
 4 As this definition confirms, Dexon merely transmitted the activation keys to the end users and does
 5 not “use” the software. Applying Cisco’s reasoning, retailers such as Best Buy would be a party to
 6 every EULA governing physical software sold in their brick and mortar stores.

7 This district has correctly rejected similar attempts seeking to improperly expand the scope
 8 of an EULA to cover non-parties. In *BMM SOFTWARE, Inc. v. White Oaks Tech., Inc.*, the Court
 9 determined that the defendant was not a party to an EULA because nothing in the EULA at issue
 10 “provide[d] that a party who purchase[s] Software on behalf of the licensee somehow also becomes
 11 a licensee.” 2010 WL 3340555, at *3. As in that case, nothing in the present EULA makes Dexon
 12 a party by virtue of purchasing the software for resale.

13 Moreover, even if Dexon *were* a party to the EULA, which it is not, the alleged or supposed
 14 “passive” or “implied” acceptance of the EULA from afar would not be sufficient to confer
 15 jurisdiction. *See Attachmate Corp. v. Celcom Axiata Berhad*, No. C10-0526-RSM, 2010 WL
 16 4856793, at *2 (W.D. Wash. Nov. 22, 2010) (“Defendant’s acceptance of the EULAs in the form
 17 of ‘click-through’ agreements is insufficient to establish the contacts necessary for the exercise
 18 of personal jurisdiction. The EULAs themselves constitute contracts entered into by Defendant from
 19 afar, and without more, cannot satisfy minimum contacts. Defendant’s acceptance and breach of
 20 these contracts occurred entirely outside of Washington. Though Defendant may have foreseen that
 21 its conduct would result in a breach of these agreements, and defendant engaged in some
 22 communication with Plaintiff, the crux of Defendant’s contact with the forum remains its mere
 23 acceptance of the EULAs.”).¹

24

25

26 ¹ Cisco’s attempt to rely on the EULA is also inconsistent with its contention the software is
 27 counterfeit. To the extent the software was counterfeit (which Dexon disputes) the EULAs are
 28 likewise invalid. Put another way, Cisco cannot attempt to benefit from EULAs it contends are not
 authentic and Cisco itself never consented to.

1 Lastly, Cisco's cryptic and unexplained contention that Dexon's alleged "silence" in the face
 2 of an unidentified "duty to act" somehow supports the exercise of jurisdiction lacks merit. (Doc.
 3 No. 35 at 16-17). Cisco relies on an irrelevant case wherein personal jurisdiction was not an issue.
 4 *Golden Eagle Ins. Co. v. Foremost Ins. Co.*, 20 Cal. App. 4th 1372, 1384, 25 Cal. Rptr. 2d 242, 250
 5 (1993), *as modified on denial of reh'g* (Jan. 7, 1994). In *Golden Eagle*, the California Court of
 6 Appeals analyzed whether an actual named party to an insurance policy had accepted a renewal
 7 offer based on the named party's receipt and enjoyment of benefits under the policy. *Id.* The Court
 8 noted that the named insured's "silence coupled with retention of a renewal policy or renewal
 9 certificate may constitute sufficient evidence of an acceptance so as to place the renewal in full force
 10 and effect." *Id.* Unlike the named insured in *Golden Eagle*, Dexon is not a named party to the
 11 EULA and was never an intended or actual end user of the software.

12 **C. Purchasing product from California does not confer jurisdiction**

13 Cisco contends that this Court has specific jurisdiction over Dexon in California because
 14 Dexon *procured* limited alleged counterfeit Cisco products from California for resale. (Doc. No.
 15 35 at 20).² Namely, Cisco relies on *Rearden LLC v. Rearden Com., Inc.*, 683 F.3d 1190, 1197 (9th
 16 Cir. 2012), for the proposition that Dexon's procurement of products from a California company
 17 constitutes "use in commerce" and therefore supports jurisdiction. (Doc. No. 35 at 18).

18 As an initial matter, *Rearden* is not a personal jurisdiction case. *Id.* Rather, the Ninth Circuit
 19 analyzed whether certain non-sales activities constituted use in commerce for purpose of
 20 establishing rights and/or priority in the subject mark. *Id.* Moreover, as with *New England*
 21 *Duplicating Co. v. Mendes*, 190 F.2d 415, 418 (1st Cir. 1951), *Rearden* involved the issue of priority
 22 and registrability, and is therefore inapposite.

23

24

² Dexon is compelled to respond to Cisco's false assertion Dexon attempted "to conceal" such product acquisitions (Doc. No. 35 at 11, n.3 ("Cisco discovered these products despite Dexon's efforts to conceal them.")) Cisco fails to explain that Dexon *voluntarily and willingly* agreed to produce relevant invoices—the identical information the District of Minnesota ultimately determined Dexon was obligated to produce via subpoena. Likewise, the Court agreed Dexon properly objected to, withheld and was not obligated to produce additional information sought by Cisco.

1 The sole case cited by Cisco involving alleged “infringement” via shipment is *Drop Dead*
 2 *Co. v. S. C. Johnson & Son, Inc.*, 326 F.2d 87, 93 (9th Cir. 1963). Unlike the present case, the
 3 alleged “infringement” in *Drop Dead* was proactive shipment by the product manufacturer for the
 4 purpose of obtaining a registration. It did not involve the passive *receipt* of a shipment by another
 5 party. Cisco has not cited to a single case standing for the proposition that Dexon’s receipt of
 6 product shipped from California—product Dexon did not manufacture or affix the mark to—
 7 somehow constitutes an independent tort occurring in or connected to California for jurisdiction
 8 purposes.³

9 As Dexon argued in its opening memorandum, such passive purchases are not sufficient to
 10 establish the “express aiming” requirement, especially where Dexon made such purchases from its
 11 Minnesota office. *See Premier Fabrics, Inc. v. Walters & Mason Retail, Inc.*, No. CV 18-2126-
 12 JFW(SKX), 2018 WL 6164766, at *5 (C.D. Cal. Aug. 1, 2018) “Although Plaintiff argues that
 13 [defendant]’s purchases of the allegedly infringing products from [a California distributor] are
 14 sufficient to satisfy the express aiming requirement, the Court disagrees. . . . [I]t is undisputed that
 15 [defendant] consummated the entire purchase from [the California distributor] from its offices in
 16 Tennessee.”); *see also Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 418, 104
 17 S. Ct. 1868, 1874 (1984) (determining that “mere purchases, even if occurring at regular intervals,
 18 are not enough to warrant” jurisdiction over out-of-state defendant).

19 **D. Dexon’s minimal sales do not establish “express aiming” at California**

20 To establish the express aiming requirement, Cisco must show that Dexon has done
 21 “something more” than simply selling products in the state or maintaining a website. *Rio Props.,*
 22 *Inc. v. Rio Int’l Interlink*, 284 F.3d 1007, 1020 (9th Cir. 2002). “In determining whether a
 23 nonresident defendant has done ‘something more,’ [the Ninth Circuit has] considered several

24
 25
 26 ³ Cisco erroneously contends Dexon “shipped” the subject product out of California. (Doc. No. 35
 27 at 18 (“The sole act of shipping a single product with an infringing trademark is sufficient to
 28 establish liability under the Lanham Act.”)). Contrary to Cisco’s argument, Dexon is not the
 company “shipping” product it procured from California. Rather, Dexon merely ordered the subject
 product which was then shipped by the seller to Dexon.

1 factors, including the interactivity of the defendant’s website . . . the geographic scope of the
 2 defendant’s commercial ambitions . . . and whether the defendant ‘individually targeted’ a plaintiff
 3 known to be a forum resident.” *Mavrix Photo, Inc. v. Brand Techs., Inc.*, 647 F.3d 1218, 1229 (9th
 4 Cir. 2011) (internal citations and quotations omitted).

5 In the present case, Cisco does not even attempt to address the fact that despite having four
 6 (4) months to conduct jurisdictional discovery, it has uncovered a total of 26 transactions involving
 7 sales of 60 *allegedly* counterfeit products into California over an approximate five (5) year time
 8 period. These figures represent a mere .125% of Dexon’s total sales over the same period. Likewise,
 9 Cisco has failed to distinguish (or even acknowledge) the cases cited by Dexon in which Ninth
 10 Circuit has determined that express aiming does not arise where, as here, the only relevant contact
 11 with the forum is an extremely small percentage of the defendant’s overall sales. *Asher Worldwide*
 12 *Enterprises LLC v. Sur La Table, Inc.*, No. 11-cv-1183-MJP, 2012 WL 112641, at *5 (W.D. Wash.
 13 Jan. 10, 2012); *Monster Energy Co. v. Cycle Locators Inc.*, No. 18-00050-JGB-KKX, 2018 WL
 14 6431009, at *4 (C.D. Cal. June 25, 2018); *Alsop v. Carolina Custom Prod., Inc.*, No. 07-cv-212-
 15 VAP, 2007 WL 2441025, at *7-8 (C.D. Cal. June 29, 2007).

16 Acknowledging the de minimis amount of relevant California sales, Cisco attempts to
 17 improperly imply or suggest – via extrapolation – that there must be more counterfeit sales. (Doc.
 18 No. 35 at 9 (“...[J]urisdictional discovery revealed that approximately 27% of all Cisco products
 19 and software that Dexon sold into California, and which Cisco was able to examine, are
 20 counterfeit.”); (Doc. No. 35 at 13 (“Out of [the] 226 products examined, Cisco determined that 60,
 21 or 27% of [such] products. . .were counterfeit.”)). Such attempts at “extrapolation” to support
 22 jurisdiction are legally and factually flawed.

23 First, such attempts at “extrapolation” have been repeatedly rejected as a basis for supporting
 24 personal jurisdiction. *See Renner v. Roundo AB*, No. 1:08-cv-209, 2010 WL 3906242, at *12 (W.D.
 25 Pa. Sept. 29, 2010) (“[I]t is unclear what percentage of [Defendant]’s total sales and revenues—or
 26 [Plaintiff]’s for that matter—were comprised of Pennsylvania-related distribution. At best, the court
 27 can extrapolate from available information that the number of [Defendant] machines which found
 28 their way into the Commonwealth during the years in question comprised a small percentage of

1 [Plaintiff]’s total unit sales and an even smaller percentage of [Defendant]’s total sales. No evidence
 2 has been provided concerning the percentage of revenues derived from [Defendant]’s forum-related
 3 sales.”); *Olympia Steel Bldg. Sys. Corp. v. Gen. Steel Domestic Sales, LLC*, No. 06-cv-1597, 2007
 4 WL 1217992, at *5 (W.D. Pa. Apr. 24, 2007) (“Olympia and Universal provide documentation of
 5 five contacts between Anthem and Pennsylvania residents and between General Steel and
 6 Pennsylvania residents not connected with actual sales. Plaintiffs ask that this Court then extrapolate
 7 from this figure and presume that the Defendants have contacted Pennsylvania residents at least
 8 6,560 times. Personal jurisdiction is a fact intensive inquiry. I will not base the exercise of
 9 jurisdiction upon an extrapolation. The Plaintiffs had ample time to engage in discovery on this
 10 limited issue.”), *on reconsideration in part*, No. 06-cv-1597, 2007 WL 1816281 (W.D. Pa. June 22,
 11 2007); *Brown v. BMW of N. Am., LLC*, No. 1:14-cv-00931-JMS-DML, 2016 WL 427517, at *2
 12 (S.D. Ind. Feb. 4, 2016) (granting motion to dismiss for lack of personal jurisdiction where plaintiff
 13 acknowledged she did not have evidence of defendant’s Indiana sales and instead tried to
 14 “extrapolate the amount that [defendant] earned from the United States”).⁴

15 Second, Cisco’s implied “extrapolation” is factually flawed. Namely, Cisco misleadingly
 16 suggests its jurisdictional discovery consisted of a random sampling of Dexon’s California
 17 customers – selected primarily due to COVID constraints. (Doc. No. 35 at 9 n.2, 19-20). On the
 18 contrary, Cisco has repeatedly represented that it analyzes information obtained from resellers such
 19 as Dexon via a proprietary trade secret algorithm or formula. According to Cisco—such proprietary
 20 algorithm or formula provides an extremely reliable indication of which products are likely to be
 21 counterfeit. Cisco is believed to have utilized such algorithm or formula in selecting its subpoena
 22

23 ⁴ Federal courts have similarly denied motions to compel answers to jurisdictional discovery that
 24 attempt to extrapolate the defendant’s revenues because such extrapolations are tenuous. *See James*
v. Osmose, Inc., No. 2014-cv-64, 2015 WL 9239789, at *3 (D.V.I. Dec. 17, 2015) (“Interrogatory
 25 No. 5 asks for revenues Osmose received from sales of its products to GSWP at a particular plant
 26 from 2005 to the present. Plaintiffs argue that this information would allow them to extrapolate—
 27 without explaining on what basis or by what methodology—a percentage of that revenue that could
 28 be attributable to wood that went to the Virgin Islands. The presence of many variables in that
 possible extrapolation, argues defendant, makes too tenuous any connection between the
 information sought and the areas to be explored per the September 2015 Order. The Court agrees.”).

1 targets. Accordingly, based on the alleged reliability of Cisco’s algorithm or formula, the de
 2 minimis .125% of California products allegedly determined to be counterfeit would actually
 3 significantly overstate any percentage expected across Dexon’s total California sales.

4 Rather than addressing the analogous Ninth Circuit cases involving de minimis relevant
 5 sales, Cisco repackages the same cases on which it relied during the first round of briefing, *As You*
 6 *Sow v. Crawford Laboratories, Inc.*, 50 Cal.App.4th 1859, 1870 (1996), *as modified* (Dec. 13, 1996).
 7 (Doc. No. 35 at 19-20). As Dexon has already explained, (Doc. No. 23 at 9), the court there reasoned
 8 that specific jurisdiction arose over the out-of-state defendant because the defendant “contract[ed]
 9 directly with private distributors located in California” and “purposefully consummated business
 10 arrangements with California companies on 16 separate occasions so it could profit from the
 11 products’ use in California.” *Id.* No such contract exists here; *As You Sow* is therefore inapposite.

12 In another attempt to satisfy the “something more” requirement, Cisco relies on Dexon’s
 13 passive website as a basis to assert specific jurisdiction. (Doc. No. 35 at 20-21). But in the Ninth
 14 Circuit, a website is not a sufficient contact on which to base specific jurisdiction if the website
 15 provides general information, does not target California, and the defendant does not offer its services
 16 over the internet. *Cybersell, Inc. v. Cybersell, Inc.*, 130 F.3d 414, 415 (9th Cir. 1997).

17 For example, in *Modak v. Alaris Companies, LLC*, the district court explained that the
 18 defendant’s website did not support specific jurisdiction because (1) the “website provide[d] only
 19 general information about its services and employment opportunities; (2) the defendant “d[id] not
 20 provide business services over the internet; and (3) the plaintiff made “no showing that [defendant]’s
 21 website specifically targets prospective employees in the Northern District of California.” No. 08-
 22 cv-5118-CW, 2009 WL 1035485, at *5 (N.D. Cal. Apr. 17, 2009).

23 It is undisputed Dexon’s website is materially indistinguishable from the passive website in
 24 *Modak*. Dexon’s website provides general information about the company. Dexon does not provide
 25 services over the internet. And there is no evidence in this record that Dexon actively targets
 26 California through its website. For those reasons, this court may readily reject Cisco’s reliance on
 27 Dexon’s website.

28

1 E. Cisco has not established that litigating in California is reasonable

2 Cisco wholly ignores Dexon's alternative argument that, even if this court determines that
3 Dexon expressly aimed its conduct at California, that the exercise of personal jurisdiction over
4 Dexon would nevertheless violate the third prong's requirement that "the exercise of
5 jurisdiction . . . comport with fair play and substantial justice, i.e. it must be reasonable." *Axiom*,
6 874 F.3d at 1068. In *Zumba Fitness, LLC v. Brage*, the district court determined that there was
7 "some purposeful direction" based on sales to California residents, but the court ultimately
8 concluded that "the degree of Defendant's purposeful interjection into the Central District of
9 California is so small that it favors a finding of unreasonableness." No. 11-cv-5361-GHK-CWX,
10 2011 WL 4732812, at *3-4 (C.D. Cal. Oct. 6, 2011).

11 Therefore, even if the Court determines that Dexon purposefully directed its activities at
12 California, it may nevertheless determine that the exercise of jurisdiction is unreasonable based on
13 Dexon's minimal sales in California.

14 III. CONCLUSION

15 For the foregoing reasons, Dexon respectfully requests that this Court grant its renewed
16 motion to dismiss for lack of personal jurisdiction or, alternatively, transfer this action to the United
17 States District Court of Minnesota.

18

19 Dated: May 14, 2021

Respectfully submitted,

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21 Amanda R. Washton, member of
22 CONKLE, KREMER & ENGEL
23 Professional Law Corporation

24

25

26 By: /s/Amanda R. Washton
27 Amanda R. Washton
28 Attorneys for Movant
Dexon Computer, Inc.

PROOF OF SERVICE

Cisco Systems, Inc. v. Dexon Computer, Inc., et al.
Case No. 3:20-cv-4926

STATE OF , COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of . My business address is 3130 Wilshire Boulevard, Suite 500, Santa Monica, CA 90403-2351.

On May 14, 2021, I served true copies of the following document(s) described as **DEFENDANT DEXON COMPUTER, INC.'S REPLY MEMORANDUM IN SUPPORT OF RENEWED MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT FOR LACK OF PERSONAL JURISDICTION** on the interested parties in this action as follows:

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BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on May 14, 2021, at Santa Monica, California.

/s/Amanda R. Washton
Amanda R. Washton